

**MEMO ENDORSED.**

# Fisher Broyles

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September 21, 2023

**VIA ECF**

The Honorable Ona T. Wang, U.S.M.J.  
U.S. District Court, Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Re:** *In re: Subpoena Issued on Third Party 3i Group plc, Case No. 1:23-mc-00268-JGK-OTW (underlying case: Smarte Carte Inc. v. Innovative Vending Solutions, LLC, et al., Case No. 1:19-cv-08681-NLH-AMD (D.N.J.))*

**Status Report & Consent Letter Motion to Transfer**

Dear Judge Wang:

This firm represents movants and defendants in the underlying action, Innovative Vending Solutions, LLC and Innovative Strollers, LLC (collectively, "IVS"). Pursuant to the Court's order dated September 11, 2023 (D.I. 10), we write jointly on behalf of third party 3i Group plc and plaintiff in the underlying action, Smarte Carte Inc., to provide a status report and to respectfully move for transfer of this miscellaneous action upon consent.

**Status Report:** On September 15, 2023, the parties in the underlying action had a conference and motion hearing before Magistrate Judge Ann Marie Donio of the District of New Jersey. At that hearing, Magistrate Judge Donio denied defendants' motion to stay the underlying action and granted defendants' motion to extend time for fact discovery until November 30, 2023. We attach copies of the New Jersey Court's orders for this Court's reference (D.I. 186 and 187 in 19-cv-8681).

**Consent Motion to Transfer:** The parties respectfully move to transfer this miscellaneous action to the District of New Jersey to be consolidated with the underlying action, Case No. 1:19-cv-08681-NLH-AMD (D.N.J.). This Court has discretion to transfer a motion related to a subpoena upon consent. "When the court where compliance is required did not issue the subpoena, it may transfer a motion under this rule to the issuing court if the person subject to the subpoena consents or if the court finds exceptional circumstances." Fed. R. Civ. P. 45(f). The District of New Jersey is the issuing court for the subpoena subject to this miscellaneous

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action. All parties in the underlying action and 3i Group, the entity subject to the subpoena, consent to transfer of this action to the District of New Jersey. The New Jersey court is well-versed in the issues pending in the underlying action and is equipped to resolve this motion to compel.

**Joint Motion for Extension of Time:** Respondent 3i Group's response to the motion is due on September 22, 2023, and movant IVS's reply is due September 29, 2023. Due to travel schedules and the foregoing motion to transfer, as well as a forthcoming discovery conference in the underlying action on October 3, 2023, the parties respectfully request a short extension of the motion briefing schedule, namely, an extension until September 27, 2023, for respondent to file its response and an extension until October 2, 2023, for movant to file its reply.

Counsel are available should the Court have any questions. The parties are submitting a courtesy copy of this letter to Magistrate Judge Donio in the underlying action.

Respectfully submitted,



Christopher R. Kinkade

Enclosures

cc: All Counsel of Record  
Hon. Ann Marie Donio, U.S.M.J.

Application GRANTED. The above-captioned case is transferred to the District of New Jersey to be consolidated with the underlying action, Case No. 1:19-cv-08681-NLH-AMD (D.N.J.).

SO ORDERED.



Ona T. Wang  
U.S.M.J.

9/21/2023